

(Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), the Senator from Illinois (Mr. DURBIN), and the Senator from Massachusetts (Mr. KERRY) would each vote aye.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 33 Ex.]

YEAS—91

Akaka	Dodd	Lugar
Alexander	Dole	McCain
Allard	Domenici	Mikulski
Allen	Dorgan	Miller
Baucus	Edwards	Murkowski
Bayh	Ensign	Murray
Bennett	Enzi	Nelson (FL)
Bingaman	Feingold	Nelson (NE)
Bond	Feinstein	Pryor
Boxer	Fitzgerald	Reed
Breaux	Frist	Reid
Brownback	Graham (SC)	Roberts
Bunning	Grassley	Rockefeller
Burns	Gregg	Santorum
Byrd	Hagel	Sarbanes
Campbell	Harkin	Schumer
Cantwell	Hatch	Sessions
Carper	Hollings	Shelby
Chafee	Hutchison	Smith
Chambliss	Inhofe	Snowe
Clinton	Inouye	Specter
Cochran	Johnson	Stabenow
Coleman	Kennedy	Stevens
Collins	Kohl	Sununu
Conrad	Kyl	Talent
Cornyn	Landrieu	Thomas
Craig	Lautenberg	Voinovich
Crapo	Leahy	Warner
Daschle	Levin	Wyden
Dayton	Lieberman	
DeWine	Lincoln	

NOT VOTING—9

Biden	Graham (FL)	Lott
Corzine	Jeffords	McConnell
Durbin	Kerry	Nickles

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be notified of the Senate's action on the three nominations.

The Senator from Utah.

NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT—Continued

Mr. HATCH. Mr. President, I ask unanimous consent that on Tuesday there be an additional 6 hours for debate on the Estrada nomination; provided further, that the time be equally divided between the chairman and the ranking member, or their designees; and that following the conclusion of that time, the Senate proceed to a vote on the confirmation of the nomination, with no intervening action or debate.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HATCH. Mr. President, we have had a robust debate on the nomination. I still remain very hopeful that we will reach a consent to have a vote on the nomination after some further reasonable period of time. I hope our colleagues on the other side will permit a vote on Miguel Estrada. I think it is the right thing to do.

Mr. REID. Will the Senator from Utah yield?

Mr. HATCH. I will be happy to yield.

Mr. REID. Mr. President, I agree with the Senator. I think the debate has been very constructive today. The chairman of the committee and this Senator spoke with the majority leader today, and we expect some more debate tomorrow. The two leaders will speak tomorrow after the caucuses.

The PRESIDING OFFICER. Under the previous order, the Senator from Wyoming is recognized for 10 minutes.

Mr. REID. Mr. President, while the Senator is in the Chamber, it is my understanding that Senator ENZI is going to speak for a period of 10 minutes and the Senator from Wisconsin will speak for up to 12 minutes. I am wondering if there are any other speeches. We have an important conference committee that starts at 6:30 tonight.

Mr. HATCH. I know of no other speeches.

Mr. REID. I do not think we have anyone on our side.

Mr. HATCH. Mr. President, I ask unanimous consent that these be the last speeches.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise to support the nomination of Miguel Estrada to the U.S. Court of Appeals for the Washington, DC, Circuit. We have a great need in our Nation for qualified judges who have the patience, perseverance, and integrity to ensure that the United States continues to be a nation that is ruled by law and not by uncontrolled emotion; by reason and not by political expediency.

I am confident that Mr. Estrada is that kind of man and will be that kind of judge. There is no question that Mr. Estrada is qualified. He has proven himself through his education. He has proven himself through his work experience. And he has proven himself through his own perseverance, for he has been forced to wait for almost 2 years—2 years—for the Senate to consider this nomination. He has done this with the kind of patience and integrity that befits a U.S. Federal judge.

We often talk about the ideal in our debates in the Senate. We hold up a picture of what things should look like and how things should be done in the hope that someday we can move our Nation forward to the point where the ideal is more than a dream, but is instead a reality.

One of those ideals that has been presented is a world where our judges and our courts are more representative of America. Our courts have been accused of being elitist. The Bush administration has been working hard to change that image by making sure our judges are more diverse. By confirming Miguel Estrada to the DC Circuit Court of Appeals, we will, for the first time, have a Hispanic judge in the DC Circuit. But I can tell you, Mr. Estrada was not nominated just because he is Hispanic. He was nominated because he graduated magna cum laude and Phi

Beta Kappa with a bachelor's degree from Columbia University in 1993. He was nominated because he also graduated magna cum laude from Harvard Law School in 1986 where he was also editor of the Law Review. He served as a law clerk for Supreme Court Justice Anthony Kennedy, as a Federal prosecutor in New York, and as an Assistant Solicitor General for both the Bush and Clinton administrations, and as the leading appellate lawyer at a national law firm. Altogether, he has argued 15 cases before the Supreme Court, including one case in which he represented a death row inmate pro bono.

One will have to search long and hard to find anyone anywhere more qualified for a position on the DC Circuit Court of Appeals, and yet in spite of all of his qualifications and personal integrity, Mr. Estrada has had to wait almost 2 years for the Senate to complete his nomination.

Why? I must say that as far as I can tell, his confirmation has been delayed for reasons that have absolutely nothing to do with his qualifications or integrity as a judge. Instead, they have everything to do with partisan politics and partisan bickering.

What is most tragic about this situation is that these delays have not come without a cost. There are victims in this situation who have been denied their rights to a fair and impartial judicial process because there are not enough judges to hear their appeals. The real victims of these delays are not Mr. Estrada or the Bush administration or even the Republican Party. No. The real victims are the people whose rights have been set aside by partisan bickering and whose appeals are forced to wait because we do not have enough judges.

There is a saying: Justice delayed is justice denied. There are those in Washington who are willing to deny justice by making people with very real needs and very real issues wait while they try to score a few points in this game of politics. They force people seeking justice to drag out their court costs, their attorney's fees, their restitution and damage payments, all because they want to get one up on the other party.

We have a crisis in our courts that we can solve. Mr. Estrada is part of that solution. He was given the highest possible rating of unanimously well qualified by the American Bar Association. He has similar, if not more, experience than five of the eight judges currently serving in the DC Circuit. He has been praised by his colleagues as having those attributes most sought for in a judge; namely, brilliance, compassion, fairness, and a respect for precedence.

It is not only my opinion that is changing. I picked up a copy of Roll Call today and found a full-page ad by the Latino Coalition, which is a little bit upset over the delay in getting this nomination approved. They say the

only controversy regarding Miguel Estrada is his race. This is an impression that is being given to America. They say Senators have supported non-Hispanic judicial nominees with fewer qualifications and less experience. So the only difference here is that they cannot support an independent-minded and well-qualified Hispanic, an impression that is being put out there to America.

Of course, they give the arguments that he is qualified, that the American Bar Association gave him a well-qualified rating, that he does have experience, and that there is a double standard for Hispanics. Five of the eight judges currently serving on the DC Circuit had no previous judicial experience when appointed. That includes two of President Clinton's nominees: Merrick Garland, whose Justice Department record was quite similar to that of Miguel Estrada, and David Tatel. In addition, Judge Harry Edwards had no prior judicial experience when he was nominated by President Carter in 1979, and he was younger and had less experience than Estrada.

They go on to talk about whether he has a conservative ideology, and they suggest you tell that to Clinton appointees, prominent Democrats, and they mention a number of them. Again, this is an impression that is out there in the world about what is happening right here and now.

They are concerned about the comments they have heard that perhaps he is not Hispanic enough, and they are a little upset with that. They listed a number of organizations that are backing him and are getting the message out that here is a person who is well qualified and that there is a belief that there is some discrimination occurring.

I hope we can get this rapidly concluded and get this outstanding man on the bench.

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin is recognized for 12 minutes.

Mr. FEINGOLD. Mr. President, I oppose the nomination of Miguel Estrada. Let me take a few minutes to explain why.

First, I want to discuss the background of this nomination, which I think is an important factor for the Senator to consider. The DC Circuit, to which Mr. Estrada has been nominated, as many people have said, is widely regarded as the most important Federal circuit. It has jurisdiction over the actions of most Federal agencies. Many of the highest profile cases that have been decided in recent years by the Supreme Court concerning regulation of economic activity by Federal agencies in areas such as the environment, health and safety regulation, and labor law, went first to the DC Circuit. In the area of administrative law and the interpretation of the major regulatory statutes such as the Clean Air Act, the Clean Water Act, the Occupational Safety and Health Act, the National Labor Relations Act, and even the Fed-

eral Election Campaign Act, the DC Circuit is the last word, as the Supreme Court accepts relatively few cases on appeal from the circuit courts.

The DC Circuit is now evenly split, and has been for some time, between nominees of Democratic and Republican Presidents. There are four judges who were appointed by Republicans and four by Democrats, and there are four vacancies. In the last Congress of President Clinton's term, he made two nominations that were never acted upon by the Senate Judiciary Committee. In one case, the committee held a hearing but never scheduled a vote, and in another, the Clinton nominee was not even given the courtesy of a hearing.

Now we hear that President Bush is not only going to fill those two seats, but also two others that Republicans have argued for years did not need to be filled at all because of the court's supposedly smaller workload in comparison to other circuits. I have heard this time and again in the Judiciary committee, we do not need these positions filled. Now that there is a Republican Senate, suddenly they are going to be filled. So this nomination becomes a pivotal nomination, and this circuit could very quickly become divided 8 to 4 between Republican appointees and Democratic appointees. Again, this is the context where President Clinton's nominees were not given a chance to have a vote.

I am disappointed that the Bush administration has not been willing to extend an olive branch on this circuit in particular. There are enough vacancies to accommodate both of the pending nominees and the two nominations by President Clinton who were treated so badly in the 107th Congress. But that does not seem likely to happen.

It is worth mentioning as well that seats on the DC Circuit have also in recent years served as springboards for the Supreme Court. Three of the current nine justices on the Supreme Court, Justices Scalia, Ginsburg, and Thomas, first sat on the DC Circuit.

Many commentators and activists, on the right and the left, believe that Mr. Estrada is being groomed for a Supreme Court appointment.

For all of these reasons, I believe it is our duty to give this nomination very close scrutiny. Unfortunately, Mr. Estrada has not made this task easy. In fact, by failing to answer questions at his hearing candidly and completely, he has made it even more difficult. Unlike many of the circuit court nominees that the Judiciary Committee has reviewed so far, Mr. Estrada is not a judge on a lower court, with a record of judicial opinions that we can review to get an idea of his views and his judicial philosophy for this lifetime appointment. Unlike some of the other nominees we have seen, he is not a law professor, with extensive written work that we can review and about which we can ask questions. He is a private attorney, with no published writings

since law school. The Justice Department has refused to let the committee see his memos from when he worked in the Solicitor General's office, which may or may not be revealing of his views.

This is where we are: we were left with the hearing to explore with Mr. Estrada directly the question of what kind of judge he would be on the D.C. circuit. As a member of the Judiciary Committee, I attended much of that hearing. Mr. Estrada steadfastly refused to help us get a sense of his views. And his way of resisting the committee's legitimate inquiry was, in my mind, extraordinary. I have been on that committee for over 8 years and have never quite seen this. He took the position that he could not express an opinion about a case that had already been decided by the Supreme Court unless he took the time to review not only the opinion of the court, which for many would be sufficient, but all the briefs and the arguments of the parties, and also, and I'm quoting here from one of his answers: "[doing] all the legwork of investigating every last clue that the briefs and the arguments offer up."

Mr. Estrada says he has to do all that just to give his reaction to a decision of the Supreme Court. That is not the type of approach I have seen most people take when being up for a nomination in front of the Senate Judiciary Committee. The result? Mr. Estrada gave us no evidence of the kind of judge he would be. For me, given the importance of his circuit and the history of appointments to this circuit, that is a big problem. The Senate has a right to complete and responsive answers to its questions before confirming someone to a life term on such an important court.

In a few areas, we have something to go on because Mr. Estrada undertook pro bono representation of a group called the Center for Community Interest on whose board he served. Unfortunately, even though this is one of the few pieces of information we have, I was not reassured by what I learned. Mr. Estrada not only defended an anti-loitering statute ultimately struck down by the Supreme Court, but on a radio program he took a very aggressive stance in dismissing the arguments made against the statute. He even went so far as to suggest there was something improper about the fact that this legal challenge had been brought, and that attitude carried over in his arguments in a challenge to another anti-loitering ordinance, which Mr. Estrada argued that the NAACP did not have standing to challenge the law.

I was also not satisfied with Mr. Estrada's answers to questions concerning his role in helping to screen law clerk applicants for Justice Anthony Kennedy of the Supreme Court. Allegations have been made that Mr. Estrada saw himself as an ideological gatekeeper of sorts, with the task of

making sure no one was too liberal for his tastes to be a clerk for the Justice. After first asserting the comments ascribed to him were meant as a joke, Mr. Estrada then gave very careful lawyerly answers to follow-up questions.

I cannot say for certain that he was untruthful. I am not saying that. But he certainly was not forthcoming. And this is the pattern throughout the process of trying to examine this nomination of Mr. Estrada.

Both to this area and in answers to questions concerning specific decisions of the courts or legal principles, I think the Senate has the right and duty to demand more openness and responsiveness from someone whose public record is so thin and who has been nominated for such an important judicial position.

Let me be clear, I very much want to be fair about something such as this. I probably would vote to confirm Miguel Estrada to a Federal district court judgeship. He has a distinguished academic and employment record. But for this crucial seat on this crucial court, we need to be confident that a nominee, if confirmed, will be fair, impartial, and not devoted to advancing an ideological agenda.

Based on the record before us, I do not have that confidence in Mr. Estrada. I must, therefore, reluctantly oppose his nomination.

I yield the floor.

LEGISLATIVE SESSION

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred July 4, 2000, in Grant Town, WV. Arthur "J.R." Carl Warren, Jr., 26, an openly gay African-American man, was brutally murdered. The two 17-year-old boys who killed Warren beat him and repeatedly kicked him with steel-toed boots. They threw him in a car and drove across town where they beat him further and drove

back and forth over his body, ultimately killing him. The attackers were known to describe Warren using racial epithets and antigay slurs.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

TRADE ADJUSTMENT ASSISTANCE LEGISLATION FOR FARMERS

Mr. CONRAD. Mr. President, I want to take a few minutes today to express my concern about yet another implementation foulup at the Department of Agriculture. Over the past several months, many colleagues and I have been extremely disappointed to find that USDA has deliberately ignored congressional intent in implementing the farm bill. Today, I want to point out to my colleagues that this pattern is not limited to the farm bill.

Six months ago, we enacted comprehensive trade legislation that gave the President trade promotion authority. In return for this authority, the President embraced an expansion of the Trade Adjustment Assistance program to help those who suffer ill effects as a result of trade agreements. I was extremely pleased that this expansion of Trade Adjustment Assistance included legislation I authorized to make the TAA program work for farmers.

When a trade agreement causes manufactured imports to increase, and plants close and workers lose their jobs, the workers are eligible for cash benefits and retraining under TAA so that they can adjust to this dislocation and find new work. But when a trade agreement or change in our trade policy results in a flood of agricultural imports that collapse prices and cost farmers tens of thousands of dollars in the lost income, farmers could not qualify for assistance because the program requires that you lose your job. Farmers don't lose their jobs. They still bring in the harvest. But when prices collapse, they can end up losing a lot more than income than the manufacturing worker who does lose a job. That is unfair, and it is wrong.

My TAA for Farmers legislation would fix it to make sure farmers can receive assistance when trade causes their prices and incomes to collapse. The law we passed last year directed USDA to get this program up and running by February 3—this past Monday. But just a few days ago, without any prior warning, USDA informed me that Secretary Veneman and her top deputies had ignored the law. They never bothered to direct anyone to write the rules to implement TAA for Farmers. USDA is only now getting started on this project, and it will take at least 6 months before the rules are in place.

That means farmers who were hurt by trade last year will not be able to get the assistance to which they are entitled under the law. That is just not right.

Year in and year out, agriculture is one of the few bright spots in our international trade picture. At a time when we are running \$400 billion annual trade deficits, agriculture is one of the few sectors to show a trade surplus. Yet too often in trade negotiations our agricultural interests have been traded away to get agreement in other areas. And the results can be devastating.

For example, in North Dakota we have had a bitter experience with the Canadian Free Trade Agreement. As a result of defects in that agreement, North Dakota wheat and barley growers have been subjected to a flood of unfairly traded Canadian imports, costing our farmers hundreds of millions of dollars in lower prices and lost sales. Not surprisingly, support for trade expansion out in farm country, where it ought to be stronger than anywhere else, has slipped dramatically. My TAA for Farmers legislation is designed to create a safety net to help farmers in this circumstance. My hope is that this legislation will also help rebuild support for trade agreements than can increase our agricultural imports.

But that certainly won't happen if Secretary Veneman and the USDA ignore the law and fail to implement the program. So I want to put the Secretary on notice that, while I cannot say I am surprised that she has once again failed to come through for farmers, I am certainly disappointed. And I will be watching very closely to make sure that the timetable does not slip again and that the final rule is consistent with congressional intent.

BLACK HISTORY MONTH

Mr. KOHL. Mr. President, I rise today to commemorate the observance of Black History Month.

Dr. Carter Godwin Woodson launched "Negro History Week" in 1926 to counter widespread ignorance and distortion about the history of African Americans in the United States. In 1976, the week was expanded to a month and renamed "Black History Month." February was chosen because many key dates in black history occur in that month: the birthdays of Frederick Douglass, W.E.B. Dubois, Langston Hughes, and Abraham Lincoln; the founding of the NAACP; the swearing in of the first African American Senator, the Honorable Hiram Revels; and passage of the 15th amendment to the Constitution proclaiming the right of U.S. citizens to vote regardless of race, color, or previous condition of servitude.

African-Americans are responsible for rich contributions to the State of Wisconsin as well as the entire Nation. I would like to encourage all Wisconsin residents to honor Black History Month by utilizing local resources such